REMARKS

Claims 31, 32, 34 and 35 are pending in the application. Claims 1-30 and 37-42 have been withdrawn and claims 33 and 36 have been canceled. Claims 31, 32, 34, and 35 stand rejected.

Claims 31 and 32 have been amended to make them independent. In addition, Claim 31 has been amended to clarify that the method is for treating a mammal suffering from an adenocarcinoma and that the antibody comprises a heavy chain variable region comprising the amino acid sequence of SEQ ID NO: 19 and the light chain variable region comprising the amino acid sequence of SEQ ID NO: 6. Support for the amendment can be found in paragraphs 329-332, for example. Claim 32 has been amended to clarify that the method is for treating a mammal suffering from an adenocarcinoma and that the antibody comprises a heavy chain variable region comprising the amino acid sequence of SEQ ID NO: 21 and the light chain variable region comprising the amino acid sequence of SEQ ID NO: 8. Support for the amendment can be found in paragraph 269, for example. It is believed that no new matter has been added by the amendment.

Claims 31, 32, 34 and 35 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to satisfy the enablement and written description requirements. The Office action did indicate that claims directed to the treatment of adenocarcinoma with an antibody containing a heavy chain variable region comprising the amino acid sequence of SEQ ID NO: 19 and a light chain variable region comprising the amino acid sequence of SEQ ID NO: 6 satisfied the enablement and written description requirements. Claim 31 has been amended in accordance with the guidance provided in the Office action. Similarly, the Office action indicated that claims directed to the treatment of adenocarcinoma with an antibody containing a heavy chain variable region comprising the amino acid sequence of SEQ ID NO: 21 and a light chain variable region comprising the amino acid sequence of SEQ ID NO: 8 would satisfy the enablement and written description requirements and Claim 32 has now been amended accordingly. Thus, it is submitted that the rejection should be withdrawn.

Claims 31-33 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by *Ammons*. Claim 33 is now canceled. Applicants request that this rejection be reconsidered and

withdrawn for the following reasons. The subject matter as claimed, is not disclosed in the cited reference. Applicants submit that, according to MPEP 2133.03(a) II, mere knowledge of the invention by the public does not warrant rejection under 102(b), 102(b) bars public use or sale, not public knowledge. *Ammons* is not a public use nor is it a public sale and Applicants submit that the invention as claimed was not publicly disclosed. Specifically, Applicants submit that no sequence information is inherent in the disclosure of the generalized name of a molecule such as, ING-1(heMAb).

Claims 31-33 stand rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by *XOMA A Leader in Therapeutic Antibodies* and by *Better et al.* Claim 33 is now canceled. Applicants submit that the claimed invention was not publicly disclosed. Specifically, Applicants submit that no sequence information is inherent in the disclosure of the generalized name of a molecule such as, ING-1(heMAb). Moreover, the work described in the cited publications was carried out by the inventors of the claims in the present application and therefore the work was not known by others or described in a printed publication before the invention by the present applicants, as would be required to support a rejection under 35 U.S.C. § 102(a). Therefore, Applicants request that the rejection be withdrawn.

Claims 31-33 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by US 20030203447. Claim 33 is now canceled. A rejection under 35 U.S.C. § 102(e) requires a patent filed by another before the invention by the Applicant. In the present case the Applicant for the claims, Dr. Horwitz, is the inventor in US Publication No. 2003/0203447 and in the present application. Thus, the cited reference is not by another filed in the United States.

Claims 31-36 stand rejected under 35 U.S.C. § 103(a) as unpatentable over *US 20030203447*, *XOMA*, *Better et al.*, or *Ammons* in view of *WO 01/07082*. Claims 33 and 36 have been canceled. Applicants submit that neither *US 20030203447*, *XOMA*, *Better et al.*, or *Ammons* are prior art references against the present claims for the reasons given above. Namely, the invention was not known or used by others in this country, as required by 35 U.S.C. § 102(a) (*XOMA*, *Better et al.*) nor was the invention described in a patent by another as required by 35 U.S.C. § 102(e) (*US 20030203447*) nor described in a printed publication or in public use as required by 35 U.S.C. § 102(b) (*Ammons*) before the invention thereof by the applicant for patent. Moreover, *WO 01/07082* does not disclose the method of Claims 31, 32, 34, or 35 that

uses antibodies having the recited sequences. Applicants therefore request that the basis for the rejection be reconsidered and that the claims be allowed.

Applicants have made an earnest effort to place the application in form for allowance and request that the application be passed to issue. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing.

Respectfully submitted,
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